

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, AUGUST 1, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Deputy Mayor Atkins at 2:07 p.m. Deputy Mayor Atkins recessed the meeting at 3:25 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 3:38 p.m. with District 2, District 8, and Mayor vacant. Deputy Mayor Atkins recessed the meeting at 5:37 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 5:59 p.m. with District 2, District 8, and Mayor vacant. The meeting was adjourned by Deputy Mayor Atkins at 6:23 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant
- Clerk-Maland (gs)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant

FILE LOCATION: MINUTES



ITEM-10: INVOCATION

Invocation was given by Assistant City Clerk Joyce Lane.

FILE LOCATION: MINUTES



ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Young.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

6/27/2005

6/28/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:09 p.m.)

MOTION BY YOUNG TO APPROVE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-31: Bruce Brown Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-71) ADOPTED AS RESOLUTION R-300714

Recognizing the community service, that Bruce Brown has provided the citizens of San Diego;

Proclaiming August 1, 2005, to be "Bruce Brown Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:09 p.m. – 2:14 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

- CS-1** *Brown Field Aviation Ventures v. City of San Diego, et al.*
San Diego Superior Court, Case Number GIC817232

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

CDCA assigned: C. Gleeson

This action involves a lease dispute between the City of San Diego, as the owner of the real property at the Brown Field Airport, and two private parties with leasehold interests at the Airport. Plaintiffs' allege that the City has breached the Master Lease by failing to allow Plaintiffs to use the property for non-aviation related uses. In closed session, the City Attorney will update the City Council on the status of the litigation and seek direction on possible settlement of the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

- CS-2** *San Diego City Employees' Retirement System v. San Diego City Attorney, et al.
and related Cross-Action*
San Diego Superior Court No. GIC841845

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: D. McGrath

This matter is an action filed by the retirement system covering a variety of issues. The matter was stayed pending activity of the City's Audit Committee, but the stay recently expired. The City Attorney filed (but did not serve) a cross-complaint raising a variety of issues and will brief the City Council on the status of the matter in closed session, and request appropriate direction. In addition, the City Council will consider a request from certain of the named cross-defendants that the City provide a defense and indemnification in the case.

CLOSED SESSION COMMENT 1:

Virginia Silverman commented on the receivership and requested that the discussions surrounding litigation be held in an open forum rather than in closed session.

CLOSED SESSION COMMENT 2:

Dick Wilken commented on the cross-complaint filed by the City Attorney and asked Council not to consider authorizing such a lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-3 *William J. McGuigan v. City of San Diego, et al.*
San Diego Superior Court Case No. GIC849883.

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: D. McGrath

This lawsuit was filed on behalf of a retired City employee against the City of San Diego requesting that the Court order the City to immediately pay all past unfunded pension liability to the retirement system. In closed session, the City Attorney will brief the City Council on the matter and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-4 *People of the State of California v. Grissom, et. al*
San Diego Superior Court No. GIC850246

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

CA assigned: M. Aguirre

This matter is an action by the People of the State of California against a number of employees of the City and the retirement system. In closed session the City Council will consider a request by certain of the named individuals that the City provide a defense and indemnification in the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-5 *Walker v. City*

U.S. District 97-CV-1547 BTM (LSP)

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: L. Girard

The matter is litigation concerning the applicability of a variety of disability laws to the expansion of Qualcomm Stadium. As part of a settlement with the plaintiffs in the case, the City agreed to indemnify the San Diego Chargers for losses it incurred as a result of the City's failure to comply with the disability laws or as a result of the implementation of the settlement. One of the issues is the impact on the Chargers of the removal of and modifications to the seats at the Stadium in order to comply with the settlement agreement, and the Chargers claim damages as a result of those changes and modifications. The parties have attempted to negotiate a resolution of the Chargers' claim. In closed session the City Attorney will report on the status of the negotiations and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-6 *San Diego City Employees Retirement System v. City of San Diego*
San Diego Superior Court No. GIC 851286

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: D. McGrath

This matter is litigation recently filed by SDCERS regarding the legality of certain retirement benefits. In closed session, the City Attorney will brief the City Council on the litigation and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-7 California State University Board of Trustees

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: K. Heumann and DCA C. Silva

This matter involves the SDSU Campus Master Plan Environmental Impact Report [EIR]. The City of San Diego and the Redevelopment Agency of the City of San Diego City are both responsible agencies for purposes of CEQA. The Agencies reviewed the EIR and provided comments on the draft EIR which addressed deficiencies in the EIR. In closed session, the City Attorney will brief the Council on the status of the matter and seek direction from the City Council and Redevelopment Agency.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

CS-8 Number of Cases: One or more

REFERRED TO CLOSED SESSION OF TUESDAY, AUGUST 2, 2005

ACA assigned: D. McGrath

These matters involve potential action against a variety of individuals or entities for the recovery of money. In closed session, the City Attorney will brief the City Council on the prospects for recovery and request appropriate direction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 5:28 p.m. – 5:35 p.m.)

Deputy Mayor Atkins closed the hearing.

- * ITEM-50: Award of Contract to Lease Options for Pumper Fire Apparatus per Bid 6735-05-Q-RFP.

(See City Manager Reports CMR-05-055; and CMR-05-154, this report was not available at the Committee.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/18/2005, Item 151. (Council voted 6-0. Councilmembers Zucchet and Inzunza not present. Mayor-vacant):

(O-2006-2) ADOPTED AS ORDINANCE O-19398 (New Series)

Authorizing the City Manager to execute, for and on behalf of the City of San Diego Fire-Rescue Department, a contract to KME Fire Apparatus, Ontario, California to lease Fifty Fire Apparatus over a seven-year contract period with seven additional one-year option periods, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer. The KME Fire Apparatus bid resulting from RFP 6735-05-Q is hereby accepted;

Declaring the sales tax payment for the first order of eight (8) apparatus payment due in Fiscal Year 2006 shall be charged \$220,000 from Fund #100, Department #120, Object Account #6029, and Activity #2252;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

FILE LOCATION: PURCHASE

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-51: Exempting the Position of Program Manager for the Ethics Commission from the Classified Service.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/18/2005, Item S401.
(Council voted 6-0. Councilmembers Zucchet and Inzunza not present. Mayor-vacant):

(O-2006-4) ADOPTED AS ORDINANCE O-19399 (New Series)

Exempting the position of Program Manager for the Ethics Commission from the classified service and declaring to be in the unclassified service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission on July 7, 2005, as meeting the Charter criterion for exemption from the classified service, and after having considered and reviewed the Report from the Civil Service Commission to the Mayor and City Council dated July 7, 2005.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:40 p.m. – 4:01 p.m.)

MOTION BY PETERS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-52: Rezoning 19.16 Acres Located at 11860 Carmel Creek Road - San Diego Jewish Academy.

(Carmel Valley Community Plan Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance, which was introduced on 7/19/2005, Item 334. (Council voted 6-0. Councilmembers Zucchet and Inzunza not present. Mayor-vacant):

(O-2005-148) ADOPTED AS ORDINANCE O-19400 (New Series)

Changing 19.16 acres located at 11860 Carmel Creek Road, within the Carmel Valley Community Plan Area, in the City of San Diego, California, from the Agriculture Residential (AR-1-1) Zone (previously referred to as the A-1-5 or A-1-10 Zones) into the Residential Single Unit (RS-1-14) Zone (previously referred to as the R1-5000 Zone), and Open Space-Conservation (OC-1-1) Zone, as defined by San Diego Municipal Code Sections 131.0403 and 131.0203.

FILE LOCATION: LUP – San Diego Jewish Academy, 7/19/05 (65)

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-53: Rezoning a Portion of Property Located at the Northeast Corner of Ocean View Hills Parkway and Otay Mesa Road - California Terraces Neighborhoods 13/14.

(Otay Mesa Community Plan Area. District 8.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/19/2005, Item S500, Subitem B. (Council voted 5-1. Councilmember Atkins voted nay. Councilmembers Zucchet and Inzunza not present. Mayor-vacant):

(O-2005-145) ADOPTED AS ORDINANCE O-19401 (New Series)

Changing a portion of property, located at the northeast corner of Ocean View Hills Parkway and Otay Mesa Road within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the RM-3-7 Zone (previously referred to as the R-1000 Zone) into the CC-1-3 Zone (previously referred to as the CA Zone), and from the CC-1-3 zone (previously referred to as the CA Zone) to the R-3-7 Zone (previously referred to as the R-1000 Zone) as defined by San Diego Municipal Code Sections 131.0406 and 131.0507.

FILE LOCATION: LUP – California Terraces Neighborhoods 13/14,
7/19/05 (65)

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-54: Rezoning 9,832 acres located on map C-923 within the San Pasqual Community Plan Area.

(San Pasqual Community Plan Area. District 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 7/19/2005, Item 336, Subitem B. (Council voted 6-0. Councilmembers Zucchet and Inzunza not present. Mayor-vacant):

(O-2005-150) ADOPTED AS ORDINANCE O-19402 (New Series)

Changing 9,832 acres located on map C-923, within the San Pasqual Community Plan Area, in the City of San Diego, California, from the Agricultural-Residential Zone (AR-1-1 Zone) into the Agricultural-General Zone (AG-1-1 Zone), as defined by San Diego Municipal Code Section 131.0302, and repealing Ordinance No. O-9317, adopted November 30, 1965, of ordinances of the City of San Diego insofar as the same conflicts herewith.

FILE LOCATION: LUP – San Pasqual Valley Plan and Rezone of Portions of
the San Pasqual Valley from AR-1-1 to AG-1-1
Amendments

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-55: Amendments to the Agreements with URS Corporation and P&D Consultants, for As-Needed Design Services for Retrofit Projects.

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinances:

Subitem-A: (O-2005-146) INTRODUCED, TO BE ADOPTED ON MONDAY,
SEPTEMBER 6, 2005

Introduction of an Ordinance authorizing the City Manager to execute, for and on behalf of the City, a First Amendment to the Agreement Between City of San Diego and URS Corporation (formerly HYA Consulting Engineers, a Dames and Moore Company) (Agreement) for as-needed Consultant Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$7,200 from Water Fund 41500, CIP-70-941.0, Annual Allocation Reclaimed Water Retrofit, for the purpose of providing additional funding for design services with URS Corporation for Miramar Wholesale Nursery Retrofit Project due to construction change to complete this project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

Subitem-B: (O-2005-147) INTRODUCED, TO BE ADOPTED ON MONDAY,
SEPTEMBER 6, 2005

Introduction of an Ordinance authorizing the City Manager to execute, for and on behalf of the City, a Fourth Amendment to the Agreement Between City of San Diego and P&D Consultants, Inc. for as-needed Professional Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$5,300 from Water Fund 41500, CIP-70-941.0, Annual Allocation Reclaimed Water Retrofit, for the purpose of providing additional funding for design services with P& D Consultants, Inc. for Scripps Poway Parkway MRN MAD Retrofit Project due to construction change to complete this project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

On March 2, 1998, the City and Miramar Wholesale Nursery entered into a Reclaimed Water Retrofit Agreement for the design and construction of the conversion of their existing irrigation system from potable to recycled water (Document No. RR-289790). This Agreement was revised

on July 18, 2001, as Document No. C-10827, to increase the budget from \$137,840 to \$250,160, and to extend the agreement for one year. URS Corporation was authorized to provide As-needed design services, Task No. 18, to design the Miramar Wholesale Nursery, CIP-79-430.2. During construction, Change Orders # 1 and #2 were required to make some minor modification to the current design. Additional services were needed to complete the retrofit project. The work has been completed and customer has been using recycled water since May 11, 2004.

On July 28, 1998, a Memorandum of Understanding between MWWD, Water Department and Park and Recreation Department was made for the purpose of the sale and distribution of recycled water by converting the existing irrigation system from potable to recycled water for the Northern Area Parks namely, University Gardens, Doyle Community and Spring Canyon Parks, and Landscape Maintenance Districts whose street names were identified as Scripps Poway Parkway, Towne Centre Drive, Mercy Road and Campus Point Drive. The Water Department agrees to reimburse Park and Recreation Department 100% of actual irrigation retrofit costs. P&D Consultants was authorized to provide as-needed construction support services, Task No. 11, for Scripps Poway Parkway MRN MAD Retrofit Project. During construction, change orders were required to modify the existing conditions at the site. Additional construction services were needed to complete the retrofit project. The work has been completed and customer has been using recycled water since January 19, 2004.

FISCAL IMPACT:

Funds in the amount of \$12,500 are available from Water Fund 41500, CIP-70-941.0, Annual Allocation Reclaimed Water Retrofits.

Mendes/Belock/Ruiz

Aud. Certs. 2501132 and 2501133.

Staff: Hossein Juybari – (619) 533-5273
John F. Kirk – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



* [ITEM-100:](#) Appropriation and Expenditure of Funds for the Sub Area II Recreational Feasibility Study.

(Carmel Valley Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1219 Cor. Copy) ADOPTED AS RESOLUTION R-300715

Amending the Fiscal Year 2006 Capital Improvements Program, by adding CIP-29-888.0, Sub Area II Recreational Feasibility Study;

Amending the Fiscal Year 2006 Capital Improvements Program Budget, by increasing the budget amount by \$60,000 in CIP-29-888.0, Sub Area II Recreational Feasibility Study in Fund No. 390662, Sub Area II PDIF;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$60,000 from CIP-29-888.0, Sub Area II Recreational Feasibility Study in Fund No. 390662, Sub Area II PDIF, for the purpose of this study.

CITY MANAGER SUPPORTING INFORMATION:

Sub Area II lies within the North City Future Urbanizing Area and is generally located east of Interstate 5, south of Via de la Valle and north of the Carmel Valley community. It is bordered by the communities of Fairbanks Country Club and Pacific Highlands Ranch on the east. El Camino Real is the major north-south roadway through the Sub Area.

This recreational feasibility study will focus on City owned parcels located west of El Camino Real that are currently being used for agricultural purposes.

This study will evaluate the recreational needs of the communities located near Sub Area II, study the topography and soils of the parcels being considered, identify the available utilities, determine what type of discretionary permits and environmental reports may be needed and make a recommendation to the Park and Recreation Department whether pursuing a regional type recreational facility in this portion of the City would be advisable.

FISCAL IMPACT:

These actions will allocate \$60,000 from Sub Area II PDIF, Fund No. 390662 for the Park and Recreation Department to study the feasibility of a regional recreational facility in this portion of the City.

Herring/Oppenheim/AP

Aud. Cert. 2501044.

Staff: April Penera – (619) 525-8223
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-101: Appropriation and Expenditure of Funds for the Carmel Valley Skate Park Project.

(Carmel Valley Community Area. District 1.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1218) ADOPTED AS RESOLUTION R-300716

Amending the Fiscal Year 2006 Capital Improvement Program, by adding CIP-29-887.0, Carmel Valley Skate Park;

Amending the Fiscal Year 2006 Capital Improvement Program Budget, by increasing the budget amount by \$50,000 in CIP-29-887.0, Carmel Valley Skate Park in Fund No. 390662, Sub Area II PDIF;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$50,000 from CIP-29-887.0, Carmel Valley Skate Park in Fund No. 390662, Sub Area II PDIF, for the initiation of this project.

CITY MANAGER SUPPORTING INFORMATION:

On December 7, 2004, the City awarded a design-build contract for the Northwestern Area Police Station and Community Service Center (CSC) to be constructed at the intersection of El Camino Real and Elijah Ct. in Carmel Valley, CIP-36-059.0. In the original design-build proposal, this project was to include a CSC. The CSC would have occupied approximately 25,000 square feet of the total site. However, based on the escalating cost of construction for the police station, the CSC was eliminated from the project.

When the CSC was eliminated from the Northwestern Area Police Station project, the land became available for an alternate City facility. The community has expressed a desire in using this site to develop a new skate park. The site is located near the Carmel Valley Community Park. This initial funding will allow the Park and Recreation Department to study the viability of placing a skate park at this location. The Park and Recreation Department will also evaluate alternative means of funding the skate park's design, construction and operation. If it is determined that this site is a feasible location for a skate park, the Park and Recreation Department will solicit additional community input prior to initiating design of the skate park.

FISCAL IMPACT:

These actions will allocate \$50,000 from Sub Area II PDIF, Fund No. 390662 for the Park and Recreation Department to study the viability of the proposed Carmel Valley skate park.

Herring/Oppenheim/AP

Aud. Cert. 2501096.

Staff: April Penner – (619) 525-8223
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-102: South San Diego Pipeline No. 2 Project Close-Out.

(Southeastern San Diego, Otay Mesa, Otay Mesa/Nestor, and San Ysidro Community Areas. Districts 4 and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-65) ADOPTED AS RESOLUTION R-300717

Authorizing the expenditure of \$191,745 from Water Fund 41500, CIP-73-249.0, solely and exclusively for the purpose of providing funds for the South San Diego Pipeline No. 2 project and related costs;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer any excess budgeted funds to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

In 2000, the City authorized the construction of the South San Diego Pipeline No. 2. At that time, the South San Diego/Otay Mesa area was serviced by only one major water pipeline. Construction of South San Diego Pipeline No. 2 provides a redundant source of water for the South San Diego/Otay Mesa area. The new pipeline includes 11.5 miles of pipeline ranging from 42-inch, 48-inch, and 54-inch in diameter, the Princess Park Pump Station, and the Alaquinas Pressure Reducing Station. The project was complete in June 2005 and the pipeline is in service.

This 1472 requests authorization of funds allocated to the project in fiscal year 2005. These funds will cover in-house engineering costs incurred for the construction of Segment S, the final segment of the pipeline, and project close-out. Funds will also cover the last two years of

maintenance and monitoring of the environmental mitigation plan for a segment of the pipeline known as Segment A. Maintenance and monitoring of the mitigated site is required under the Conceptual Sage Scrub Mitigation Plan, South San Diego Water Pipeline No. 2, Joint Project/City of Chula Vista & City of San Diego, December 20, 2001.

FISCAL IMPACT:

The total cost for the South San Diego Pipeline No. 2 is \$36,304,660. Funding for the project is available from Water Fund 41500, CIP-73-249.0, South San Diego Pipeline No. 2.

Mendes/Belock/MKS

Aud. Cert. 2600020.

Staff: Vic Bienes – (619) 533-6600
Lori W. Girard – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-103: Reimbursement Contract and Extended Warranty Funding for Firearms Training Simulator (FATS) Upgrades.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-72) ADOPTED AS RESOLUTION R-300718

Authorizing the City Auditor and Comptroller to expend up to \$24,000 from Fund 10117 for the purpose of firearm simulator upgrades, to seek and accept reimbursement from Peace Officer Standards and Training (POST) for the

proposed upgrades, and to expend \$9,495.20 from Fund 10117 to enter into a 36-month warranty agreement on the firearms simulator equipment.

CITY MANAGER SUPPORTING INFORMATION:

Fund 10117, Job Order 010117 was established in 1993 to track training costs of supporting the Emergency Vehicle Operations Course, training supplied to law enforcement officers by the San Diego Police Department (SDPD) in accordance with the State of California Commission on Peace Officer Standards and Training (POST) requirements. Training expense reimbursement on a per student basis was deposited to Fund 10117 (Contract xx-011-055). Expenditures to support the training program were expended from Fund 10117. The requirements of this program expanded to include simulator training, and POST paid for installation of a driving simulator (ISIMS) and a Firearms Training Simulator (FATS) in 1998 (Contract 98-011-094). Job Order 010118 was established to track perishable skills simulator based training (Contract xx-011-063) expenditures and reimbursements in 2002.

Contract 03-011-208 between SDPD and POST authorizes the City of San Diego to purchase \$31,000 in upgrades to ISIMS (\$7,000) and FATS (\$24,000). Only the \$24,000 for FATS upgrades can be utilized. POST will reimburse actual expenditures for approved upgrades up to the \$24,000 limit.

The warranty on all the existing equipment for FATS is set to expire October 2005. The upgrades, when delivered and installed, will include a one-year warranty in the purchase price. However, the original system components will not be covered under this warranty. The 36-month extended warranty on the existing FATS equipment and the upgrades totals approximately \$9,495, and will be paid out of the allocated monies in Fund 10117, Job Order 010118 (Police Simulator Training).

Authorization to expend the funds is requested.

Ewell/Lansdowne/JCL

Aud. Cert. 2600022.

Staff: Dan Vega – (619) 388-7952
Joan F. Dawson – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-104: Appropriation and Expenditure of Funds for Lake Murray Community Park Artificial Turf Field, CIP-29-892.0.

(Navajo Community Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-1361) ADOPTED AS RESOLUTION R-300719

Amending the Fiscal Year 2006 Capital Improvements Program, by adding CIP-29-892.0, Lake Murray Community Park Artificial Turf Field;

Amending the Fiscal Year 2006 Capital Improvements Program, by increasing the budget amount by \$20,000 in CIP-29-892.0, Lake Murray Community Park Artificial Turf Field, Fund No. 79506, Navajo Development Impact Fees;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$20,000 from CIP-29-892.0, Lake Murray Community Park Artificial Turf Field, Fund No. 79506, Navajo Development Impact Fees for the purpose of providing funds for plan review, Board presentation and construction observation.

CITY MANAGER SUPPORTING INFORMATION:

This park is located at Lake Murray in the Navajo community. This community driven project proposes the addition of an artificial turf ball field south of the existing ball fields at Cowles Point. The community has sought donations and pro bono services to make it possible. The new amenities include an artificial turf infield and outfield: a standard City backstop, two accessible parking spaces and an accessible path of travel. Because the field will be artificially turfed, there will be a reduction in routine maintenance and water consumption.

The General Development Plan (GDP) amendment was prepared as an in kind donation by Jeff Katz and Associates. The community's construction estimate is \$305,000. The proposed funding, in the amount of \$285,000, is via the Baseball Tomorrow Fund and cash donations. Additional funding for construction will be sought by the community, including an application to the County Water Authority for a water conservation grant.

This request is for funding of staff time, including plan reviews, environmental reviews, presentations to the various community and advisory group and construction inspection.

FISCAL IMPACT:

The funding for design support and construction inspection is available in Navajo Development Impact Fees, in the amount of \$20,000.

The additional cost to operate and maintain the proposed ball field is \$9,500 per year. This project is located in a park deficient community and therefore, the funding source will be via the general fund. A funding request by the department will be made to the City Manager in the budget year the facility goes into operation.

Herring/Medina/AP

Aud. Cert. 2600018.

Staff: April Pendera – (619) 525-8223
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



[ITEM-105:](#) Agreement with Boyle Engineering Corporation for Professional Services for Mission Trails Bike Path Study II.

(Navajo Community Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-62) ADOPTED AS RESOLUTION R-300720

Authorizing the City Manager to execute an agreement with Boyle Engineering Corporation for a feasibility study of the proposed Mission Trails Bike Path according to the terms and conditions set forth in the agreement;

Authorizing the City Auditor and Comptroller to expend an amount not exceeding \$37,000 from CIP-58-160.0, Mission Trails Bike Path Study, \$27,000 in Fund 390066, and \$10,000 in Fund 30301, for the purpose of executing the above-referenced agreement, contingent upon the City Auditor and Comptroller certifying that the necessary funds are on deposit in the City Treasury; and

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The Mission Trails Bike Path Study (CIP-58-160.0) provides for a feasibility study of a Class I bike path between Zion Avenue and Princess View Drive along the San Diego River. The feasibility study will devise several alternative alignments for the bike path, analyze the cost, determine environmental impacts, solicit community input, and consider other factors associated with each alternative.

On August 31, 2001, the City Manager authorized an Agreement with BRW Inc., for the Mission Trails Bike Path Study I to conduct a feasibility study of the segment of the San Diego River Bike Path between Mission Gorge Road at Zion Avenue and Mission Gorge Road at Princess View Drive.

The Mission Trails Bike Path Study II will provide a feasibility study for an east-west bike path connecting to the proposed bike path alignment studied in the Mission Trails Bike Path Study I at Princess View and continuing through the Mission Trails Regional Park. The proposed bike path will connect to the bicycle facilities at the City limit with the City of Santee and will improve access to the bicycle network, the Navajo Community, Mission Trails Regional Park, and the City of Santee.

In accordance with Council Policy 300-7 and AR 25.70, nine firms were interviewed for the Mission Trails Bike Path Study II. Boyle Engineering Corporation was selected and awarded a contract to provide the feasibility study.

FISCAL IMPACT:

Total consultant fee for the feasibility study is \$37,000. Funds for this action are available in CIP-58-160.0, Mission Trails Bike Path Study, of which \$27,000 is from Fund 390066 and \$10,000 is from Fund 30301.

Mendes/Boekamp/LVW

Aud. Cert. 2600016.

Staff: Larry Van Wey – (619) 533-3005
Jeremy A. Jung – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 3:40 p.m.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION BY AMENDING LANGUAGE IN THE AGREEMENT TO READ, “THE ALIGNMENT ALTERNATIVES WILL BUILD OFF THE CONCEPTUAL ALIGNMENTS THAT WERE IDENTIFIED IN THE SAN DIEGO RIVER PARK MASTER PLAN, AND SPECIFY THAT THE COMMUNITY GROUP OVERSIGHT WILL BE THE MISSION TRAILS CITIZENS ADVISORY COMMITTEE AND TO INCLUDE THE SAN DIEGO RIVER COALITION. Second by Frye. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-106: Agreement with the United States Department of Agriculture and Accepting Grant Funding for Chollas Creek Habitat Enhancement.

(Eastern Community Area. Districts 3 and 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-11) ADOPTED AS RESOLUTION R-300721

Authorizing and directing the City Manager to enter into an agreement, for and on behalf of the City, with the United States Department of Agriculture, to provide for a habitat enhancement project at Chollas Creek, under the terms and conditions set forth in the form of the Agreement;

Authorizing and directing the City Manager to apply for, execute documents in connection with, and accept grant money from the U.S. Department of Agriculture, through its Wildlife Habitat Incentives Program, to pay for expenses associated with habitat enhancement at Chollas Creek;

Declaring the Council authorizes the use of such grant money from the U.S. Department of Agriculture for habitat enhancement at Chollas Creek.

CITY MANAGER SUPPORTING INFORMATION:

Provided the funds are available, the United States Department of Agriculture will provide money to restore approximately 5 acres of native riparian and upland coastal sage scrub habitat along Chollas Creek, in the vicinity of 54th Street. Efforts to remove trash and non-native species will improve water quality for native plant and animal communities. Currently that section of Chollas Creek exceeds TMDLs for several pollutants. Removal of trash would help reduce the source of some of these pollutants.

The funding will be provided through the Wildlife Habitat Incentives Program. The project will also serve the interests of the City, not only by improving wildlife habitat and water quality, but also by providing funding for removal of trash in this area that frequently is occupied by transients. Removal of non-native vegetation may discourage future encampments in this area. The City has paid for cleanups in this area in the past from its own funding sources, and this grant would help reduce this financial impact. There will be no negative financial impact to the City.

Mendes/Heap/LW

Staff: Lisa Wood – (619) 533-1236
Grace C. Lowenberg – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-107: National Quartet Singing Week.

COUNCILMEMBER YOUNG’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-56) ADOPTED AS RESOLUTION R-300722

Proclaiming the week of August 7 through August 12, 2005, to be “National Quartet Singing Week” in the City of San Diego, in recognition of the National Singing Quartet of America Interdenominational, Inc., national convention and in appreciation of its efforts to improve the quality of life for many Americans.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-108: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-1301) ADOPTED AS RESOLUTION R-300723

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-109: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-1242) ADOPTED AS RESOLUTION R-300724

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-150: Construction and Demolition (C&D) Debris Diversion Deposit Ordinance.

(See City Manager Report CMR-05-071; and memorandum from Elmer L. Heap dated 7/28/2005.)

(Continued from the meeting of July 18, 2005, Item 150, at the request of City Council, for further review.)

TODAY'S ACTION IS:

Introduce **either** Option 1 in Subitem A or Option 2 in Subitem B; and adopt the following resolution in Subitem C:

Option 1

Subitem-A: (O-2005-101) CONTINUED TO MONDAY, SEPTEMBER 12, 2005

Introduction of an Ordinance amending Chapter 6, Article 6 of the San Diego Municipal Code by adding Division 6, Sections 66.0601, 66.0602, 66.0603, 66.0604, 66.0605, 66.0606, 66.0607, 66.0608, 66.0609, and 66.0610, all relating to the Diversion of Construction and Demolition Debris from Landfill Disposal.

This ordinance would require applicants for building permits and demolition/removal permits to post a refundable deposit and submit a waste management plan demonstrating how construction and demolition waste generated from the project will be diverted from landfill disposal. After final project inspection and timely submittal of satisfactory evidence that the waste has been properly diverted, the applicant would be eligible for a refund of the deposit in proportion to the diversion rate achieved for the project.

This ordinance shall take effect beginning on January 1, 2006, and initially requires the applicant to achieve a 25% diversion rate in order to be eligible for a full refund of the deposit. The required diversion rate will increase to 50% as of July 1, 2006, and to 75% as of January 1, 2007, unless a certified recycling facility, which accepts mixed construction and demolition wastes, is not operating within the City at the given diversion rates on the rate increase dates specified above. In that case, diversion rate increases will take place after public notice that such a facility is available.

OR

Option 2

Subitem-B: (O-2005-143) CONTINUED TO MONDAY, SEPTEMBER 12, 2005

Introduction of an Ordinance amending Chapter 6, Article 6 of the San Diego Municipal Code by adding Division 6, Sections 66.0601, 66.0602, 66.0603, 66.0604, 66.0605, 66.0606, 66.0607, 66.0608, 66.0609, and 66.0610, all relating to the Diversion of Construction and Demolition Debris from Landfill Disposal.

This alternative ordinance sets forth the same requirements as described in Option 1 above with the following exceptions:

The **alternative** ordinance shall take effect and **be in force on the thirtieth day after public notice that a certified recycling facility which accepts mixed construction and demolition waste is operating in the City at a 50% diversion rate.**

The alternative ordinance initially would require the applicant to achieve a 50% diversion rate in order to be eligible for a full refund of the deposit. That diversion rate would remain in effect for six months, after which time the diversion rate would increase to 75%, unless a certified recycling facility, which accepts mixed construction and demolition wastes, is not operating within the City at a 75% diversion rate at that time. In that case, the diversion rate increase will take place after public notice that such a facility is available.

Subitem-C: (R-2005-1288) CONTINUED TO MONDAY, SEPTEMBER 12, 2005

Approving the modified deposit schedule for the City's Construction and Demolition Debris Diversion Program, attached hereto as Exhibit "A" and on file in the Office of the City Clerk;

Directing the City Manager to draft internal procedures to require the recycling of construction and demolition debris, as set forth in more detail in Manager's Report No. 05-071, on file in the Office of the City Clerk.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 4/13/2005, NR&C voted 4 to 0 to forward this ordinance to the City Council for their consideration with no recommendation from the Natural Resources and Culture Committee, and to direct the City Manager to bring forward to the Council an alternative ordinance that addresses the various concerns raised by the Committee members. (Councilmembers Young, Maienschein, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

On November 22, 2004, the City Council voted 7-0 to adopt a Construction and Demolition Material Recycling Policy and directed the City Manager to bring forward a mandatory construction and demolition recycling ordinance to the Natural Resources and Culture (NR&C) Committee. The Construction and Demolition (C&D) Debris Diversion Deposit Ordinance (Ordinance) was presented to the NR&C Committee on April 13, 2005. The Committee voted 4-0 to forward the Ordinance to the full City Council with no recommendation along with an alternative ordinance that includes modifications to the initially proposed ordinance based on direction from the Committee.

The Ordinance would provide an incentive to recycle or reuse C&D waste by requiring applicants for building and demolition permits to post a refundable deposit and submit a waste management plan demonstrating how C&D waste from the project will be diverted from landfill disposal. Upon submittal of documentation proving waste has been diverted, deposits would be returned to the applicants in proportion to the diversion achieved by the applicant.

An applicant could decide to forfeit the deposit in lieu of diverting waste. With certain exceptions (noted in Attachment I to City Manager's Report 05-071), the Ordinance would apply to all applicants for building and demolition permits beginning January 1, 2006. The project diversion rate would increase over time, beginning with a 25% diversion rate applicable to permits issued between January 1, 2006, and June 30, 2006, increasing to a 50% diversion rate on July 1, 2006, and increasing to a 75% diversion rate for permits issued after January 1, 2007. The diversion requirements would not increase to 50% or 75% until the City has given notice that a mixed C&D facility is operating in the City at that diversion rate.

The alternative ordinance differs in that the deposit requirements take effect thirty (30) days after a mixed C&D facility operating in the City at a 50% diversion rate has been certified; would require applicants to achieve a 50% diversion rate on the project in order to qualify for a full refund; and would step up to a 75% diversion requirement seven months after a mixed C&D facility is certified at a 75% diversion rate.

In addition, the NR&C Committee asked staff to reduce costs on residential alterations. Staff responded to this request by increasing the minimum square footage subject to the ordinance and decreasing the maximum deposit for these projects. The NR&C Committee also asked staff to commit to returning refunds to qualified applicants within 30 days rather than 90 days. Both of these changes have been incorporated into the alternative Deposit Schedule.

In relation to internal City C&D recycling requirements, ESD is in on-going discussions with other City departments working together to minimize impacts to the other departments.

FISCAL IMPACT:

If the original Ordinance is adopted, the fiscal impact will be the same as noted in the City Manager's Report 05-071 attached. If the alternative ordinance is adopted, there will be no fiscal impact in FY 2005 or FY 2006 and the fiscal impact for subsequent fiscal years will be the same as noted for those years in the City Manager's Report.

Mendes/Heap/JO

Staff: Kip Sturdevan – (858) 573-1214
Grace C. Lowenberg – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:18 p.m.)

MOTION BY FRYE TO CONTINUE TO MONDAY, SEPTEMBER 12, 2005, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-200: Tax Rate Ordinance for Fiscal Year 2006.

(See City Manager Report CMR-05-162.)

CITY MANAGER'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-2006-8) INTRODUCED AND ADOPTED AS ORDINANCE
O-19403 (New Series)

Introduction and Adoption of an Ordinance fixing the tax rates and levying taxes
for the Fiscal Year 2005-2006.

Staff: Irina Kumits – (619) 235-5714
Mark D. Blake – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:36 p.m. – 5:36 p.m.)

MOTION BY MADAFFER TO INTRODUCE, DISPENSE WITH THE READING,
AND ADOPT THE ORDINANCE. Second by Young. Passed by the following vote:
Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-201: Four actions related to Annual Special Tax Levy – Community Facilities
District No. 1 (Miramar Ranch North), Community Facilities District No. 2
(Santaluz), Community District No. 3 (Liberty Station), and Community Facilities
Districts No. 4 (Black Mountain Ranch Villages).

(Black Mountain Ranch, Peninsula and Miramar Ranch North Community Areas.
Districts 1, 2, and 5.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2006-70) ADOPTED AS RESOLUTION R-300725

Adoption of a Resolution of the City Council acting as the legislative body of
Community Facilities District No. 1 (Miramar Ranch North) authorizing the Levy
of Special Taxes for Fiscal Year 2005/2006.

Subitem-B: (R-2006-68) ADOPTED AS RESOLUTION R-300726

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 2 (Santaluz) authorizing the Levy of Special Taxes within Improvement Area No. 1, Improvement Area No. 3, and Improvement Area No. 4, for Fiscal Year 2005/2006.

Subitem-C: (R-2006-69) ADOPTED AS RESOLUTION R-300727

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 3 (Liberty Station) authorizing the Levy of Special Taxes within Improvement Area No. 1 and Improvement Area No. 2, for Fiscal Year 2005/2006.

Subitem-D: (R-2006-67) ADOPTED AS RESOLUTION R-300728

Adoption of a Resolution of the City Council acting as the legislative body of Community Facilities District No. 4 (Black Mountain Ranch Villages) authorizing the Levy of Special Taxes for Fiscal Year 2005/2006.

CITY MANAGER SUPPORTING INFORMATION:

The City Council has previously adopted resolutions and ordinances that established Community Facilities District No. 1 (Miramar Ranch North), Community Facilities District No. 2 (Santaluz), Community Facilities District No. 3 (Liberty Station), and Community Facilities District No. 4 (Black Mountain Ranch Villages) (the “Districts”). Among other things, these actions authorized the issuance of limited obligation special tax bonds to finance the construction and acquisition of public infrastructure in or serving the Districts, authorized the levy of a special tax, and approved the Rate and Method of Apportionment of Special Taxes, which is the formula used to determine the amount of special tax to be levied on taxable parcels within a District.

This City Council action would confirm the annual rates, apportionment, and total amount of special taxes to be levied and collected on taxable property within the boundaries of the Districts for Fiscal Year 2006. Each year, the special tax levy is presented to the City Council for approval, in accordance with the Mello-Roos Community Facilities Act of 1982. The special taxes are calculated in accordance with each District’s Rate and Method of Apportionment of Special Taxes. The Fiscal Year 2006 special tax rates are generally consistent with previous years, with the exception of a programmed 2% increase for Community Facilities District No. 2, pursuant to the taxing formula.

Special taxes to be levied against taxable parcels of land within each District for the upcoming fiscal year are reflected in the reports submitted herewith. These special taxes will be billed and collected by the County of San Diego in the same manner as ordinary ad valorem property taxes. Pursuant to the Rate and Method of Apportionment for each District, monies received in the form of special taxes will be used to pay debt service on each District's outstanding bonds if any, and/or pay directly for public facilities, maintain the appropriate balance in the reserve fund for each District, if any, and pay costs incurred by the City in administering the Districts.

FISCAL IMPACT:

No fiscal impact to the City will occur as a result of this City Council action. The annual special tax levy includes an administrative charge to reimburse the City for costs and expenses incurred on behalf of the Districts.

Irvine/Mueller/CW

Staff: Chuck Wilcox – (619) 533-4519.

<u>FILE LOCATION:</u>	Subitem A: STRT-CFD1 (58)
	Subitem B: STRT-CFD2 (58)
	Subitem C: STRT-CFD3 (58)
	Subitem D: STRT-CFD4 (58)

<u>COUNCIL ACTION:</u>	(Time duration: 5:36 p.m. – 5:37 p.m.)
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MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-250: **Notice** of Pending Final Map Approval – 4485 Alabama Street.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4485 Alabama Street” (T.M. No. 70165/PTS No. 71745), located southeasterly of Monroe Avenue and Alabama Street in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: **Notice** of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

Riveria Del Sol
Sabre Springs Parcels 28,29, and 30 Unit No. 1
Robinhood Ridge Unit No. 3
Scripps Highlands Phase 1
Del Mar Mesa Estates Unit No. 1

COMMUNITY AREA

Otay Mesa
Sabre Springs
Otay Mesa
Scripps Highlands
North City Future
Urbanizing Area

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.



[ITEM-S400:](#) City Attorney's Task Force for Lease and Other Contract Review.

(Continued from the meeting of July 25, 2005, Item S408, at the request of City Attorney Aguirre, for further review.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-79 Cor. Copy) ADOPTED WITH DIRECTION AS RESOLUTION
R-300729

Accepting and approving the City Attorney's oral report;

Establishing a task force consisting of representatives of the City Attorney's Office, City Manager's Office, and City Auditor's Office to review City contracts and leases as described in the City Attorney's oral report.

SUPPORTING INFORMATION:

In order to protect the interests of the citizens of the City of San, the City Attorney is creating a Contract and Lease Task Force to review various City agreements. This review will ensure the City realizes the optimum economic contract benefits allowable under law. The Task Force will also work with the City Manager's and Auditor's Offices to develop the best practices in negotiations, implementation, and contract enforcement.

Aguirre/KK

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:33 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION WITH DIRECTION TO ACCEPT THE CITY ATTORNEY'S REPORT AND THAT THE TASK FORCE CONSISTING OF REPRESENTATIVES OF THE CITY ATTORNEY'S OFFICE, CITY MANAGER'S OFFICE, AND CITY AUDITOR'S OFFICE IS HEREBY ESTABLISHED TO REVIEW CITY CONTRACTS AND LEASES. INCLUDE IN THE REPORT THE FOLLOWING: 1) DEVELOPING A COMPREHENSIVE REAL ESTATE ASSET STRATEGY THAT ENCOMPASSES THE LEASING OF CITY REAL ESTATE ASSETS THAT MAXIMIZES REVENUES, CREATES JOBS, AND/OR INCREASES THE AVAILABILITY OF AFFORDABLE HOUSING; 2) CATEGORIZING LEASES AND CONTRACTS; 3) ADDRESSING MITIGATION MONITORING AND REPORTING PROGRAMS; 4) PROVIDING A MONITOR PROCESS FOR LEASES AND CONTRACTS DURING THEIR EXECUTION; 5) PROVIDING THE HISTORY OF LEASES AND CONTRACTS; 6) ADDRESSING PROFIT VERSES NON-PROFIT; 7) LISTING BEST PRACTICES, FOR EXAMPLE, IN NEW DEVELOPMENTS NOT ISSUING THE CERTIFICATE OF OCCUPANCY UNTIL THE MITIGATION HAS ACTUALLY BEEN PERFORMED; 8) AVOIDING THE HIRING OF OUTSIDE COUNSEL; AND 9) PRIORITIZING LEASES AND CONTRACTS THAT CAN BE IMPROVED UPON. Second by Young. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S401: Waiver of Attorney-Client Privilege and the Work Product Doctrine.

(Continued from the meetings of July 19, 2005, Item S501 and July 25, 2005, Item S401, last continued at the request of City Attorney Aguirre, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-) TRAILED TO TUESDAY, AUGUST 2, 2005

Declaring that the protections of the Attorney-Client Privilege and the Work Product Doctrine are waived as to the reports prepared for the City by the law firm Procopio Cory Hargreaves & Savitch relating to the City's defense

obligations for defendants named in the People v. Grissom, et al action and the separate Cross-Complaint action related to the San Diego City Employees' Retirement System which have been brought by the City Attorney;

Directing the City Attorney to prepare the necessary Resolution associated with the action.

CITY MANAGER SUPPORTING INFORMATION:

From time to time the City Council has waived the Attorney-Client privilege and the protection of the Attorney Work-Product Doctrine with respect to certain materials. This may be done in order to respond to subpoenas or requests for documents or information.

The City Attorney has filed two civil complaints on matters related to the San Diego City Employees' Retirement System; People v. Grissom, et al (Case No. GIC 850246) and a Cross-Complaint action involving the Board of Administration of the Retirement System (Case No. GIC841845).

Defendants named in these actions have tendered requests for the City of San Diego to provide for their legal representation consistent with the Resolution of Indemnification approved by the City Council on November 18, 2002 (Resolution Number R-297335) or the provisions of Government Code Section 995 (defense of any civil action on account of an act or omission in the scope of his or her employment as an employee of the City). The City Manager has requested the law firm of Procopio Cory Hargreaves and Savitch to provide a legal analysis of the City's defense obligations.

The firm's reports on these two cases have been prepared, and are otherwise subject to the Attorney-Client Privilege and the protection of the Attorney Work-Product Doctrine. Therefore, they can not be released without the City Council first waiving those protections. In order to allow a public discussion of the representation requests, which are included on this agenda as Supplemental Items S402 and S403, the City Manager is requesting that the City Council waive the applicable privileges for the reports.

Ewell

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

ITEM-S402: Provision of Defense for Defendants in Case No. GIC 850246 – People v. Grissom, et al.

(Continued from the meetings of July 19, 2005, Item S502 and July 25, 2005, Item S402, last continued at the request of City Attorney Aguirre, for further review.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-) TRAILED TO TUESDAY, AUGUST 2, 2005

Declaring that the City of San Diego shall defend, indemnify and hold harmless the individuals named in the Civil Complaint, People of the State of California (Plaintiff) v. Lawrence Grissom; Ronald L. Saathoff; John A. Torres; Sharon K. Wilkinson; Terri A. Webster; Cathy Lexin; Bruce Herring; Loraine Lee Chapin (Case No. GIC 850246);

Directing the City Attorney to prepare the necessary Resolution associated with the action.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego City Attorney has filed a Civil Complaint in the Superior Court of California under the Political Reform Act of 1974. The Complaint (People of The State of California (Plaintiff) v. Lawrence Grissom; Ronald L. Saathoff; John A. Torres; Sharon K. Wilkinson; Terri A. Webster; Cathy Lexin; Bruce Herring; Loraine Lee Chapin (Defendants - Case No. GIC 850246) relates to actions of specific members of the Board of Administration of the San Diego City Employees' Retirement System and requests "recovery of economic benefit wrongfully received and injunctive relief setting aside official action" of the Board.

A request has been tendered on behalf of the defendants named in this action for the City of San Diego to provide for their legal representation consistent with the Resolution of Indemnification approved by the City Council on November 18, 2002 (Resolution Number R-297335) or the provisions of Government Code Section 995 (defense of any civil action on account of an act or omission in the scope of his or her employment as an employee of the City). Government Code Section 995.2.b specifies that upon receiving a written request, the public entity shall, within 20 days, inform the employee whether a defense will be provided.

At the request of the City Manager, the law firm of Procopio Cory Hargreaves and Savitch has prepared a legal analysis of the City's defense obligations for the named defendants in the case. The report is subject to Attorney Client Privilege. Based on the firm's assessment the City Manager requests that the City Council make a determination whether the City will declare its intent to defend, indemnify and hold harmless the individuals named in the civil complaint based on the findings of the report.

If the Council declares the intent to provide a defense, the City Manager will retain and oversee outside Counsel up to his authorization limit of \$250,000.
Ewell

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

ITEM-S403: Provision of Defense for San Diego City Employee's Retirement System
(SDCERS) Board of Administration in Cross Complaint Case No. GIC 841845.

(Continued from the meetings of July 19, 2005, Item S503 and July 25, 2005,
Item S403, last continued at the request of City Attorney Aguirre, for further
review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-) TRAILED TO TUESDAY, AUGUST 2, 2005

Declaring that the City of San Diego shall defend, indemnify and hold harmless the 21 individuals named in the Civil Cross-Complaint, San Diego City Employees' Retirement System, by and through its Board of Administration, (Plaintiff) v. San Diego City Attorney Michael J. Aguirre; the City of San Diego (Defendants) (Case No. GIC 84145);

Directing the City Attorney to prepare the necessary Resolution associated with the action.

CITY MANAGER SUPPORTING INFORMATION:

The San Diego City Attorney has filed a civil cross-complaint in the Superior Court of California (San Diego City Employees' Retirement System, by and through its Board of Administration, (Plaintiff) v. San Diego City Attorney Michael J. Aguirre; the City of San Diego (Defendants) (Case No. GIC 841845).

The complaint alleges that specific actions of members of the Board of Administration of the San Diego City Employees' Retirement System represent a breach of trust and fiduciary duty, and fraud through both negligent as well as intentional misrepresentation. The suit requests “declaratory relief” on a number of matters including terminating the 1998 MOU with the SDCERS Board and voiding the provisions of Manager's Proposals I and II.

Defendants named in this action have tendered a request for the City of San Diego to provide for their legal representation consistent with the Resolution of Indemnification approved by the City Council on November 18, 2002 (Resolution Number R-297335) or the provisions of Government Code Section 995 (defense of any civil action on account of an act or omission in the scope of his or her employment as an employee of the City). Government Code Section 995.2.b specifies that the public entity shall, within 20 days, inform the employee whether a defense will be provided.

At the request of the City Manager, the law firm of Procopio Cory Hargreaves and Savitch has prepared a legal analysis of the City's defense obligations for the named defendants in the case. The report is subject to Attorney Client Privilege. Based on the firm's assessment the City Manager requests that the City Council make a determination whether the City will declare its intent to defend, indemnify and hold harmless the individuals named in the civil complaint based on the findings of the report.

If the Council declares the intent to provide a defense, the City Manager will retain and oversee outside Counsel up to his authorization limit of \$250,000.

Ewell

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

- * ITEM-S404: Grant Application to the State of California Department of Housing & Community Development for the North City Migrant Housing Project.

(North City Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-104) ADOPTED AS RESOLUTION R-300730

Authorizing the City Manager, or his designee, to apply for a state grant from the California Department of Housing & Community Development, Joe Serna, Jr. Farm Worker Housing Grant Program to fund a proposed migrant housing project in the coastal north city area of the City of San Diego;

Authorizing the City Manager, or his designee, to take the necessary actions to secure the Grant funds from the California Department of Housing & Community Development, Joe Serna, Jr. Farm Worker Housing Grant Program for the proposed project;

Authorizing the City Manager, or his designee, to accept the state Grant in an amount of up to \$3,000,000 for the proposed project;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend the Grant funds;

Authorizing the City Auditor and Comptroller to establish a separate interest-bearing fund for the Grant.

CITY MANAGER SUPPORTING INFORMATION:

Because of the topography and proximity to agricultural work, the coastal north city area of the City of San Diego has historically been the refuge for migrant workers. Encampments have been established in the canyons, hillsides and riverbeds of that region. It is estimated that there are approximately two hundred (200) unhoused workers. According to Police Officers monitoring the impacted areas, the encampments were comprised of young males. There were no known families observed living in the canyons.

Community & Economic Development Department has recently been informed of a state grant of up to \$3,000,000 from the California Department of Housing and Community Development, Joe Serna, Jr. Farm Worker Housing (JSJFWH) Grant program to fund a migrant housing project in the coastal north city area of the City of San Diego.

If awarded, the funds will be used for, among other things, each of the following: to obtain the required permits; to prepare the land; to provide water, utilities, and sewer; to place residential units on-site; and, to manage and operate the project. Once a site has been identified and has gone through the appropriate community and public process, the City Auditor and Comptroller is authorized to accept, appropriate, and expend the Grant funds for such expenses as electricity, sewer and water connections to ensure compliance with appropriate housing standards.

In addition to housing, the City anticipates proposing a job center onsite to enable growers and other related employers to have request needed workers in an orderly manner. This is a critical element in the proposal as currently the migrant workers must stand on street corners in communities waiting to be picked up by local growers and landscapers for jobs. This often leaves some migrants without employment, creating a community concern about their activities and whereabouts during the day.

This action only allows for the application, acceptance and expenditure of a state grant, which has an August 8, 2005, application deadline. Should a specific project site and subsequent proposed housing profile be determined the program proposal will be brought forward for Council review and approval within the next 60-90 days. If other Council Districts are interested in developing a similar project in their area, additional grant funding can be pursued.

FISCAL IMPACT:

There could be future impacts on general funds and an analysis will be conducted prior to coming forward with a plan for implementation. If the City is unable to move forward, the funds can be returned to the Grantor (HCD, State of California).

Oppenheim/Fischle-Faulk/SJ

Staff: Sharon Johnson – (619) 533-6525
Michael D. Neumeyer – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:16 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S405: Two actions related to Calling Special Elections in Council Districts 2 and 8.

(See City Clerk's Report No. 05-08; and letters dated 7/20/2005 from Deputy Mayor Zucchet and Councilmember Inzunza.)

CITY CLERK'S RECOMMENDATION:

Introduce and adopt the ordinance in Subitem-A; and adopt the resolution in Subitem-B:

Subitem-A: (O-2006-21) INTRODUCED AND ADOPTED AS ORDINANCE
O-19404 (New Series)

Introduction and adoption of an Ordinance calling a Municipal Special Election in the City of San Diego on Tuesday, November 8, 2005, to fill vacancies in Council Districts 2 and 8; and consolidating the election with the California State Special Election to be held on the same date.

Subitem-B: (R-2006-102) ADOPTED AS RESOLUTION R-300731

Requesting the consolidation of a Municipal Special Election to be held in the City of San Diego on Tuesday, November 8, 2005, to fill vacancies in Council Districts 2 and 8, with the California State Special Election to be held on the same date.

SUPPORTING INFORMATION:

Councilmembers Michael Zucchet and Ralph Inzunza have announced their resignations effective Monday, July 25, 2005, leaving vacancies in the office of Councilmember for District 2 and District 8. Pursuant to Charter Section 12, the City Council is required to fill the vacancy by special election because there is more than one year remaining in the term of office.

This action is to request that the City Council adopt an ordinance calling a Special Primary Election to fill the vacancies at an election to be held November 8, 2005; and to adopt a resolution requesting the services of the Registrar of Voters.

The procedures for filling a vacancy in a Council office by special election are contained in Divisions 7 and 9 of Chapter 2, Article 7 of the San Diego Municipal Code (SDMC). SDMC Section 27.0902 specifies that the special election must be held within 90 days of the date of the vacancy; or, if there is a regular municipal, statewide, or countywide election scheduled to be held within 180 calendar days of the vacancy, the City Council may consolidate the special election with that regular election. The statewide special election is scheduled for November 8, 2005 and a special run-off election to fill the Mayoral vacancy has already been consolidated with this election.

Following this Council action, the Clerk's Office will open the nomination period for potential candidates on August 2, 2005. The deadline for filing nomination papers will be Friday, August 12, 2005. If one candidate for a given office receives the majority of votes cast for all candidates in the special election, that candidate will be elected to the vacant office.

If no candidate for a given office receives a majority of votes cast in the special election, a special run-off election will be held.

A candidate elected at either the special election or at the special run-off election called by the City Council to fill the vacant office shall be declared elected to the unexpired term of his or her predecessor and will assume office at the time the City Council adopts the resolution declaring the results of the election.

Maland

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:38 p.m. – 3:24 p.m.)

MOTION BY PETERS TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE IN SUBITEM A; AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S406: Appointment of a Mayor Pro Tem to Perform Mayoral Duties in the
Absence of the Deputy Mayor.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-98) ADOPTED AS RESOLUTION R-300732

Declaring that the City Council hereby creates a temporary office of Mayor Pro Tem;

Declaring that in the event that the Deputy Mayor is absent or otherwise unable to fulfill the duties of the Mayor during the Mayoral vacancy, the Mayor Pro Tem shall perform all of the duties of the Mayor as prescribed by the City Charter or by ordinance;

Declaring that the person elected to assume the office of Mayor Pro Tem shall remain in such office for so long as there exists a vacancy in the office of Mayor, or until removed at the pleasure of the City Council;

Declaring that upon the filling of the Mayoral vacancy, this Resolution shall cease to have any legal effect, and any person elected to serve as Mayor Pro Tem shall cease to possess any authority granted under this Resolution;

Electing to the position of Mayor Pro Tem.

SUPPORTING INFORMATION:

On July 13, 2005, the City Attorney issued a Memorandum of Law (ML-2005-13) regarding the legality of appointing a Mayor Pro Tem to fulfill the duties of the Mayor in the event that the Deputy Mayor is absent or unable to fulfill the duties during the period of the mayoral vacancy. The memorandum advises that both the Charter and Municipal Code are silent with regard to the selection of a person to assume Mayoral responsibilities in situations where the Mayor is absent and the Deputy Mayor is unable to perform the necessary functions. However, the Permanent Rules of the Council provide that Roberts Rules of Order would be the authority to rely upon in this type of situation. In particular, Roberts Rules of Order contemplates a situation where both the chairperson and vice-chairperson might be unavailable to perform their duties, and provides

authority for the creation of a "pro tem" position. In this similar situation, the City Council may select a Councilmember to serve as "Mayor Pro Tem," a temporary position that would entail fulfilling all the duties of the mayor in the event that the Deputy Mayor is unavailable during the period of the Mayoral vacancy. Upon election of a Mayor, the position of Mayor Pro Tem would be extinguished.

Girard

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:38 p.m.)

MOTION BY PETERS TO CREATE THE POSITION OF MAYOR PRO TEM UNTIL A MAYOR IS SEATED AND AUTHORIZING THE MAYOR PRO TEM TO CONDUCT THE DUTIES TYPICALLY GIVEN TO A DEPUTY MAYOR IN TIMES WHEN THERE IS A MAYOR. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

MOTION BY PETERS NOMINATING COUNCIL MEMBER MADAFFER FOR THE POSITION OF MAYOR PRO TEM. Second by Frye. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-S407: Appointing Elizabeth Maland to the Position of City Clerk.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-97) ADOPTED AS RESOLUTION R-300733

Appointing Elizabeth Maland to the position of City Clerk of the City of San Diego;

Declaring the salary of the City Clerk shall be set in the amount of \$118,000 per year, and that the City Clerk shall receive a standard package of management benefits.

SUPPORTING INFORMATION:

On July 25, 2005, in closed session the City Council voted to offer the position of City Clerk to Elizabeth Maland, subject to agreement on an appropriate salary. Ms. Maland has accepted the position, and agreement was reached on an annual salary of \$118,000 plus a standard package of City management benefits.

Girard/Ewell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:28 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-S408: Waiver of Attorney-Client Protections with Respect to Vinson & Elkins Documents.

(See letter from Audit Committee dated 7/29/2005.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-) ADOPTED WITH DIRECTION AS RESOLUTION
R-300734

Waiving Attorney-Client Privilege and the Attorney Work-Product Doctrine with respect to documents gathered and prepared by Vinson & Elkins in its investigation of the City's financial disclosure practices;

Directing the City Attorney to prepare the applicable resolution.

CITY MANAGER SUPPORTING INFORMATION:

The City previously retained the law firm of Vinson & Elkins (V&E) to prepare an internal report on the City's securities disclosure practices and to provide representation of the City before the federal Securities and Exchange Commission (SEC) with respect to their investigation of the City. The City Council previously waived the Attorney-Client and Attorney Work-Product privileges with respect to interview summaries prepared by Vinson & Elkins in the first phase of its investigation. Subsequent to the issuance of the V&E Report in September 2004, it was determined that additional investigation beyond the scope of the initial investigation was necessary to meet the City's and KPMG's obligations to address allegations of wrong doing in the preparation of the City's financial statements.

The initial and subsequent V&E investigations have resulted in the accumulation of substantial documentation gathered and prepared by V&E related to the City's financial disclosure practices. This documentation is subject to Attorney-Client Privilege and the protection of Attorney Work-Product Doctrine and cannot be released without the City Council first waiving these protections.

The City's Audit Committee proposes to schedule meetings with the SEC, US Attorney's Office and KPMG to review and discuss V&E's work product and results of its investigations. Consistent with prior waivers; in order to fully cooperate with the auditor and the investigation authorities; and in order to facilitate an open dialog and transparency with respect to sharing documentation and results, the Audit Committee requests that the City Council waive the Attorney-Client privilege and Work-Product Doctrine with respect to the contents of the documentation gathered and prepared by Vinson & Elkins. Such documentation includes V&E's procedures, further interview summaries and notes, and V&E's analysis relating to its investigation.

Ewell/Plank

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:34 p.m. – 5:27 p.m.;
6:00 p.m. – 6:21 p.m.)

MOTION BY PETERS TO ADOPT THE RESOLUTION WITH DIRECTION TO THE CITY ATTORNEY TO COME BACK NEXT WEEK WITH A STATUS REPORT ON THE WAIVERS ALREADY MADE. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 6:23 p.m. in honor of the memory of:

Val Guerra as requested by Council Member Madaffer.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 6:22 p.m. – 6:23 p.m.)